

September 2005 Litigation Report

To: Mayor Spehar & County Commissioners
 From: Bob Shillinger, Asst. County Attorney
 Date: September 15, 2005
 cc: Tom Willi, County Administrator
 Richard Collins, County Attorney

Summary

	<u>Number of Cases</u>		
New cases filed against County	3	Airports	2
Cases closed since last report	5	Community Services	3
CAY Trial level cases ⁱ	33	Engineering	5
CAY Post Judgment cases	4	Growth Management	53
CAY Appeals	5	Miscellaneous ⁱⁱ	3
Potential cases to be filed	5	MCSO	7
Outside Counsel Cases	44	Personnel	3
Total Cases pending	75	Public Works	5
		Risk Management	3

New Cases	Page 2
Closed Cases	3
CAY Litigation Cases Trial Level	4
CAY Post Judgment Cases	9
CAY Appeals	10
Potential Cases	11
Outside Counsel Cases	13
Ferencik, Libanoff (Ira Libanoff)	13
Johnson, Anselmo, (Bruce Johnson & Michael Burke)	13
Morgan & Hendrick (Derek Howard)	16
Paul, Hastings (Bob Freilich)	19
Purdy, Jolly (Mike Stephson)	20
The Smith Law Firm (Wayne Smith)	21
Vernis & Bowling (Dirk Smits, Kerry Willis & Scott Black)	22
White & Smith (Tyson Smith & Steve Moore)	19

CASES FILED AGAINST THE COUNTY SINCE LAST MONTH'S REPORT

EEOC v. Monroe County **150-2005-03773**

EEOC – Miami **Judge: N/A** **Date Filed: 9/7/05**

County served with a notice of charge of discrimination filed by an employee claiming discrimination due to his/her disability.

Public Works/Personnel

Current Status: Reviewing Complaint & gathering documentation; determining whether to handle in house or refer to outside counsel.

Next Activity: Response is due 10/7/05.

Time: 0.5 hours

Costs: 0.00

LaSalle Bank, N.A. v. Alexis & Jesus Victores & Monroe County CAP 05-373

Circuit Court 16th **Judge: Garcia** **Date Filed: 8/29/05**

Mortgage foreclosure action where County holds an inferior \$100.00 code enforcement lien. Mayor served September 8, 2005.

Growth Management/Code Enforcement

Current Status: Reviewing complaint to determine if worth responding.

Next Activity: Responsive pleading due 9/29/05.

Time: 0.5 hours

Costs: 0.00

Troy, Daniel Scott v. Monroe County **CAK 05-856**

Circuit Court 16th **Judge: Jones** **Date Filed: 8/24/05**

Mandamus action seeking after the fact building permits for structures erected on Cooks Island in violation of the County Code.

Growth Management/Planning

Current Status: Mayor has not been served yet.

Next Activity: None until Mayor served.

Time: 0.1 hours

Costs: 0.00

CASES CLOSED SINCE LAST MONTH'S REPORT

Clay, Robert Lee, John & Li Chiung Moyant v. Monroe County CAM-04-05

Circuit Court 16th Judge: Jones Date Filed: 01/05/04

Mandamus Petition/takings case regarding Big Pine properties. Mayor served 1/8/04. **Growth Management/Planning.**

Current Status: Plaintiffs voluntarily dismissed per settlement agreement.

Next Activity: Closed.

Time: 7.9 hours

Costs: 0.00

Decker, Harry v. Monroe County

CAK-01-1252

Circuit Court 16th Judge: Payne

Date Filed: 10/5/01

This is an appeal of a code enforcement OSTDS case.

Growth Management/Code Enforcement

Current Status: County prevailed on both appeals, Mandate issued 8/16/05.

Next Activity: Closed.

Time: 21.5 hours

Costs: 0.00

Thomas, David R. v. Monroe County

CAK-05-499

Circuit Court 16th Judge: Garcia

Date Filed: 5/16/05

Appeal of Contractor's Examining Board decision.

Growth Management/Building/Contractor's Examining Board

Current Status: Appellant voluntarily dismissed appeal 8/16/05.

Next Activity: Closed.

Time: 3.1 hours

Costs: 0.00

Tuttle, David, Peter Rosasco & Harley Evans v. Monroe County CAM-04-243

Circuit Court 16th Judge: Payne

Date Filed: 6/30/04

Action for damages and to compel County to issue building permits.

Growth Management/Planning

Current Status: Plaintiffs voluntarily dismissed per settlement agreement.

Next Activity: Closed.

Time: 3.5 hours

Costs: 0.00

Wells Fargo v. Ricky & Barbara Allen & Monroe County CAM-05-177

Circuit Court 16th Judge: Payne Date Filed: 7/1/05

Mortgage foreclosure action, County has a \$36,000.00 SHIP loan that is junior to the first mortgage. Mayor served 7/14/05.

Housing Authority

Current Status: Bank dismissed after owners redeemed mortgage.

Next Activity: Closed.

Time: 7.2 hours

Costs: 0.00

CAY LITIGATION – Trial Level

See Outside Counsel Section for Cases being Handled Jointly

Collins, C. & Sum Air Services v. Monroe County, et al CAM-05-146

Circuit Court 16th Judge: Payne Date Filed: 6/1/05

Declaratory judgment action regarding lease with FBO at Marathon Airport.

Airports. Filed but not served.

Current Status: Awaiting service of complaint.

Next Activity: Once served, determine if outside counsel should be retained.

Time: 0.2 hours

Costs: 0.00

Cutaia, Thomas v. Monroe County, MCSO, Pretrial Services CAK-05-617

Circuit Court 16th Judge: Jones Date Filed: 6/21/05

Complaint for unspecified damages. Mayor not served yet. **MCSO**

Current Status: Awaiting service.

Next Activity: Once served, determine if outside counsel should be retained.

Time: 0.2 hours

Costs: 0.00

Drewing, Janice v. James Roberts as County Administrator CAK-04-686

Circuit Court 16th Judge: Jones Date Filed: 6/25/04

Mandamus action seeking hearing in personnel dispute between plaintiff and her supervisor Louis Latorre. **Community Services/Social Services**

Current Status: Drewing appealed Circuit's denial of writ to Third DCA.

Next Activity: Stayed pending appeal.

Time: 19.5 hours

Costs: 0.00

Fed. Nat'l Mortg. Assn. v. M. Coleman, Monroe County, et al CAK-05-171
Circuit Court 16th Judge: Jones Date Filed: 2/18/05

Mortgage foreclosure case where County holds an inferior interest to bank due to \$1,928.00 in **Article V liens**.

Current Status: Motion's pending.

Next Activity: 10/19/05, hearing on objection to foreclosure sale, motion to rescind certificate of sale and motion to vacate final summary judgment.

Time: 2.8 hours **Costs:** 0.00

Florida Key Deer, et al v. Gale Norton (Sec. of Interior) 05-10063-CIV-KING
U.S.D.C. S.D.Fla. Judge: King Date Filed: 6/15/05

Endangered Species Act challenge to Fish & Wildlife Service's review of County's application to construct park on Big Pine Key.

Engineering/Construction Management

Current Status: Board authorized intervention by County on 8/17/05.

Next Activity: File Motion to Intervene; retain outside counsel if necessary.

Time: 3.8 hours **Costs:** 0.00

Monroe County v. R. Bernstein/Safe Harbor Marine Railway CAK-05-732
Circuit Court 16th Judge: Miller Date Filed: 7/26/05

Code enforcement lien foreclosure. Over \$221,800.00.

Growth Management/Code Enforcement

Current Status: Defendant served 8/11/05.

Next Activity: DF given till 10/10/5 to file responsive pleading.

Time: 5.5 hours **Costs:** \$576.00

Monroe County v. Matthew Bonnett CAK-05-911
Circuit Court 16th Judge: TBA Date Filed: 9/9/5

Code enforcement lien collection action authorized 10/17/04, \$78,000. **PJM**

Growth Management/Code Enforcement

Current Status: Complaint filed.

Next Activity: Serve Defendant.

Time: 2.4 hours **Costs:** \$255.00

Monroe County v. Dirk W. Damrau **CAK-05-667**
Circuit Court 16th **Judge: Miller** **Date Filed: 7/11/05**
Action to collect \$206,100.00 fine authorized by the BOCC 6/18/03.
Growth Management/Code Enforcement

Current Status: Defendant served.

Next Activity: BOCC to consider settlement offer on 9/21/05.

Time: 4.6 hours **Costs:** \$568.05

Monroe County v. Florida Detroit Diesel **SCK-05-60**
County Court (Sm. Claims) Judge: Fowler **Date Filed: 3/14/05**
Action seeking reimbursement for \$4,905.00 in clean up costs. **PJM**
Public Works/Fleet Management/Risk Management

Current Status: Settled for \$2452.50; waiting for check to clear.

Next Activity: File dismissal once check clears.

Time: 7.5 hours **Costs:** \$275.00

Monroe County v. Mark Fraleigh **CAP-03-647**
Circuit Court 16th **Judge: Garcia** **Date Filed: 12/8/03**
Ejectment action against owner of structures located on County right-of-way.
Public Works/Roads and Bridges.

Current Status: BOCC approved settlement 8/17/05.

Next Activity: Fraleigh has to remove structures by 9/16/05.
Pretrial Conference 10/14/05.

Time: 31.7 hours **Costs:** \$238.40

Monroe County v. Jack Hagopian **CAP-03-529**
Circuit Court 16th **Judge: Garcia** **Date Filed: 10/1/03**
Code enforcement collection action authorized by BOCC on 8/20/03. Fine was
\$203,100.00 as of 9/30/03 and accruing at \$250.00 per day.
Growth Management/Code Enforcement

Current Status: Discovery.

Next Activity: Mediation by end of September 2005.

Time: 18.2 hours **Costs:** \$20.00

Monroe County v. Dorothy Hough, et al **CAP-05-160**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/6/05**
Code enforcement collection action authorized by BOCC on 9/17/03. As of 9/25/03 lien valued at \$25,050.00 and accruing at \$50.00 per day.
Growth Management/Code Enforcement

Current Status: Two DFs served answer on 6/1/05; Discovery pending.

Next Activity: Settlement offer to be presented at September BOCC meeting.

Time: 8.7 hours **Costs:** \$596.00

Monroe County v. James Jeanquenat **CAP-05 317**
Circuit Court 16th **Judge: Garcia** **Date Filed: 7/18/05**
Collection action authorized by BOCC on 4/21/04. Fine exceeds 136,100.00.
Growth Management/Code Enforcement

Current Status: Defendant response overdue as of 9/10/05.

Next Activity: Default motion, discovery if denied.

Time: 2.2 hours **Costs:** \$275.00

Monroe County v. Key Largo Ocean Resorts Coop, Inc. **CAP-96-260**
Circuit Court 16th **Judge: Garcia** **Date Filed: 5/20/96**
Action to foreclose a code enforcement lien.
Growth Management/Code Enforcement

Current Status: Development agreement application being reviewed.

Next Activity: Status report due with the Court 10/1/05.

Time: 36.6 hours **Costs:** \$340.00

Monroe County v. Pedro Liz **CAK-05-420**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/22/05**
Collection action authorized by BOCC on 7/17/03; fines exceed \$816,300.00.
Growth Management/Code Enforcement

Current Status: Default issued 7/14/05.

Next Activity: Move for final judgment.

Time: 7.6 hours **Costs:** \$555.00

Monroe County v. Arthur Mehr **CAP-05-348**
Circuit Court 16th **Judge: Garcia** **Date Filed: 8/5/05**

Code fine collection action. Fine exceeds \$42,000.00.

Growth Management/Code Enforcement

Current Status: Complaint filed.

Next Activity: Serve defendant.

Time: 3.2 hours **Costs:** \$405.00

Monroe County v. Outland Properties **CAP-05-400**
Circuit Court 16th **Judge: Garcia** **Date Filed: 9/9/5**

Collection action authorized by BOCC on 10/17/04. Fine over \$225,000.00.

Growth Management/Code Enforcement **PJM**

Current Status: Complaint filed.

Next Activity: Serve Defendant.

Time: 1.1 hours **Costs:** 300.00

Nunziante, Marilyn v. Monroe County **CAK-04-1227**
Circuit Court 16th **Judge: Jones** **Date Filed: 11/18/04**

Suit over admission practices at Bayshore Manor seeking to invalidate practice of requiring family members to subsidize those who can't afford the full rate.

Community Services/Social Services

Current Status: Discovery ongoing.

Next Activity: Document production.

Time: 72.8 hours **Costs:** 0.00

Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al **CAM-04-404**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/16/04**

Declaratory judgment action by property owners seeking half of a road **PJM**
purportedly abandoned by County and then quitclaimed to City of Marathon.

Public Works/Roads and Bridges

Current Status: Discovery. Settlement negotiations ongoing.

Next Activity: County's motion to dismiss TBA pending negotiations.

Time: 9.4 hours **Costs:** \$133.00

Walgreens & Gadinsky v. Monroe County **CAK-05-266**

Circuit Court 16th **Judge: Taylor** **Date Filed: 3/11/05**

Cert. review of DOAH order upholding 1/6 findings supporting denial of major conditional use application for Big Pine Walgreens.

Growth Management/Planning

Current Status: Motion to Quash granted.

Next Activity: None while awaiting Court's preliminary review of petition.

Time: 10.2 hours **Costs:** 0.00

In re: Winn Dixie Stores, Inc. **05-03817-3F1**

U.S. Bankruptcy Ct., M.D.Fla. **Judge: Jerry Funk** **Date Filed: 2/25/05**

Voluntary Chapter 11 reorganization case where County *might* have a claim against the estate.

Current Status: Could find no basis for filing proof of claim.

Next Activity: None needed.

Time: 0.9 hours **Costs:** 0.00

CAY POST JUDGMENT CASES

Monroe County v. William L. Davis **CAP-04-181**

Circuit Court 16th **Judge: Garcia** **Date Filed: 4/15/04**

Money judgment of **\$27,600.00** for unpaid code enforcement fines and costs.

Growth Management/Code Enforcement

Current Status: Final judgment of \$28,431.00 recorded w/ Dept. of State.

Next Activity: Collection.

Time: 6.2 hours **Costs:** \$56.00

Monroe County v. Dan Gleason **SCP-03-165**
County Court (Sm. Claims) Judge: Ptomey **Date Filed: 8/5/03**
Money judgment of **\$520.00** for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement

Current Status: Final judgment recorded w/ Dept. of State.

Next Activity: Collection.

Time: 9.5 hours **Costs:** \$65.92

Monroe County v. Lily Marks **CAK-03-1152**
Circuit Court 16th Judge: Jones **Date Filed: 10/2/03**
Money judgment of \$795,270.00 for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement

Current Status: Final judgment entered for \$795,270.00 on 5/9/05.

Next Activity: Collection.

Time: 8.3 hours **Costs:** \$55.00

CAY APPEALS

Drewing, Janice v. Monroe County **3D 04-3044**
Third DCA Judge: TBA **Date Filed: 11/29/04**
Appeal of denial of writ of mandamus in personnel matter.
Community Services/Social Services

Current Status: Awaiting decision by Court.

Next Activity: Awaiting decision by Court.

Time: 31.4 hours **Costs:** \$15.00

Eads, Barbara v. Monroe County **CAP-03-117**
Circuit Court 16th Judge: Garcia **Date Filed: 2/27/03**
Appeal of order finding the Lowe House to be in unsafe condition.
Growth Management/Code Enforcement

Current Status: Appeal stayed pending application for variance and building permit.

Next Activity: None scheduled.

Time: 3.6 hours **Costs:** 0.00

Fuchs, Walburga v. Monroe County **CAK-01-1251**
Circuit Court 16th **Judge: Payne** **Date Filed: 10/5/01**

This is a code enforcement appeal of an OSTDS case.

Growth Management/Code Enforcement

Current Status: The County's brief filed; case reassigned to Judge Payne.

Next Activity: Await Court's decision.

Time: 11.5 hours

Costs: 0.00

Monroe County v. Lanes, George & Denise **CAM-04-310**
Circuit Court 16th **Judge: Jones** **Date Filed: 9/15/04**

Appeal of decision regarding elevation requirements for replacement structure.

Growth Management/Code Enforcement

PJM

Current Status: County prevailed on appeal.

Next Activity: When opinion final, remand to Special Magistrate.

Time: 10.1 hours

Costs: 0.00

POTENTIAL CASES THAT HAVE NOT BEEN FILED YET

Good, Lloyd v. Monroe County **CAK-05-TBA**
Circuit Court (16th) **Judge:** **Date Filed:**

Bert J. Harris Act claim regarding two parcels of property owned by Lloyd Good.

Growth Management/Planning

Current Status: Settlement discussions underway.

Next Activity: None. Stayed during Good's application for major conditional use.

Time: 8.6 hours

Costs: \$5.56

Harum, James v. Monroe County, DOH, & Z. Krstic **CAP-05-TBA**

Circuit Court 16th

Judge:

Date Filed:

Threatened action for injunctive relief to compel County to prosecute code enforcement violation against Zivadin Krstic by his neighbor James Harum.

Growth Management/Code Enforcement

Current Status: Underlying code case held 5/26/05, mitigation plan in effect.

Next Activity: Move to dismiss and for sanctions if filed since w/o merit.

Time: 2.4 hours

Costs: 0.00

Monroe County v. Jean M. Louis & Itnor Corp.

CAK-05-TBA

Circuit Court 16th

Judge: TBA

Date Filed:

Code fine collection action authorized by BOCC on 10/17/04. \$34,200.00.

Growth Management/Code Enforcement

PJM

Current Status: Owners not complying with settlement agreement approved by BOCC on 4/20/05.

Next Activity: File foreclosure action if not resolved.

Time: 1.5 hours

Costs: 0.00

Monroe County v. Blair & Althea Mooney

CAK-05-TBA

Circuit Court 16th

Judge: TBA

Date Filed:

Code lien collection action authorized by BOCC on 10/17/04. \$146,100.00.

Growth Management/Code Enforcement

PJM

Current Status: Fine of \$7,305.00 paid.

Next Activity: Finalize settlement agreement.

Time: .5 hours

Costs: 0.00

State of Florida v. Monroe County

TBA

TBA

Judge: TBA

Date Filed: n/a

Threatened action by AG's Medicaid Fraud unit regarding alleged over billings for ambulance services.

Public Safety/Fire Rescue

Current Status: Waiting for AG's office to set up conference.

Next Activity: Settlement conference with State.

Time: 9.2 hours

Costs: 0.00

CASES BEING LITIGATED BY OUTSIDE COUNSEL

Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.

Monroe County v. Bender & Associates, et al **CAK-03-915**
Circuit Court 16th **Judge: Jones** **Date Filed: 8/4/03**
Breach of contract and negligent misrepresentation action arising from the
defective windows in the Gato building.
Engineering/Construction Management

Current Status: Discovery ongoing.

Next Activity: Discovery ongoing.

Fees billed to date: \$55,121.00 **Costs:** \$6,246.83

Monroe County v. Lodge Construction, et al **CAK-00-617**
Circuit Court 16th **Judge: Payne** **Date Filed: 5/11/00**
Suit filed against general contractor Lodge Construction & its surety for breach of
contract to build Gato Building.
Engineering/Construction Management

Current Status: Reserved on appeal November 24, 2004. New trial granted.
Mandate issued 2/16/05.

Next Activity: Set for trial.

Fees billed to date: \$298,015.25 **Costs:** \$71,523.31

Johnson, Anselmo, Murdoch, Burke, Piper, & McDuff, P.A.

Bauknight, Skaggs & Rockett v. Monroe County **CAP-04-451**
Circuit Court 16th **Judge: Garcia** **Date Filed: 9/24/04**
Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague
Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.
Growth Management/Planning

Current Status: Discovery.

Next Activity: Discovery.

Fees billed to date: \$832.24 **Costs:** 0.00

Bauknight, Skaggs & Rockett v. Monroe County **04-CV-10105**

U.S. D.C. S.Fla.

Judge: Moore

Date Filed: 11/1/04

Inverse condemnation/takings case by owners of 3 Big Pine lots.

Growth Management/Planning

Current Status: Federal Court remanded to State Court. Attorney's fee motion appealed to 11th Circuit.

Next Activity: None.

Fees billed to date: None

Costs: 0.00

Bauknight, et al. v. Monroe County

05-10868-F

11th Cir. Ct. of Appeals

Judge: TBA

Date Filed: 2/11/05

Appeal of denial of attorney's fees motion filed against the County by takings case plaintiffs. County had removed the case to Federal Court; plaintiffs sought remand and attorneys fees. Case was remanded to state court but fees denied. Plaintiffs are seeking between \$15,000 and \$18,000 in fees.

Growth Management/Planning

Current Status: Briefs completed.

Next Activity: Oral Argument 12/9/05 in Miami, 10:30 a.m.

Fees billed to date: None.

Costs: 0.00

FKCC & Last Stand v. FL Admin. Comm., Monroe County **DOAH 04-2756**

DOAH

Judge: Carolyn Holifield

Date Filed: 08/05/04

Administrative Rule challenge to agreement with State to fund purchases of environmentally sensitive lands, provide permits for workforce housing, etc; CAY serving as co-counsel.

Growth Management/Planning

Current Status: Final Order in County's favor issued 6/29/05.

Next Activity: None pending appeal.

Fees billed to date: \$59,464.92

Costs: 0.00

CAY Time: 190.1 hours

FKCC & Last Stand v. FL Admin. Comm., Monroe County, et al 3D05-1800
Third DCA **Judges: TBA** **Date Filed: 7/28/05**
Appeal of ALJ's decision denying rule challenge in DOAH 04-2756.

Current Status: Record being prepared.

Next Activity: Appellant's brief due 10/6/05.

Fees billed to date: none

CAY Time: 0.3 hours

Costs: 0.00

Hardee, Evelyn v. Monroe County **CAP-05-255**
Circuit Court 16th **Judge: Garcia** **Date Filed: 6/3/05**
Tort action arising from alleged fall at PK Court house.
Risk Management/Public Works

Current Status: Discovery.

Next Activity: Discovery.

Fees billed to date: \$660.20

Costs: 0.00

CAY Time: 2.0 hours

Neuman, Kenneth v. Monroe County **CAK-04-663**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/04**
Action for damages and to compel County to issue building permits.
Growth Management/Planning CAY co-counsel.

Current Status: Discovery.

Next Activity: Discovery.

Fees billed to date: \$2,326.92

Costs: 0.00

CAY Time: 5.8 hours

Riverview Consultants, Inc. v. Monroe County **CAK-05-373**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/13/05**
Tortious interference with contract case. League of City's carrier counsel.
Risk Management/Airport/MCSO **PJM**

Current Status: Pleadings complete.

Next Activity: Motions and discovery.

Fees billed to date: \$743.86

Costs: 0.00

CAY Time: 4.0 hours

Morgan & Hendrick

Ambrose, Thora et al v. Monroe County CA P 97-636

Circuit Court 16th Judge: Garcia Date Filed: 12/11/97

Declaratory Judgment action claiming vested rights due to subdivision plats.
Subsequent appeal of summary judgment order reversed and remanded.

Growth Management/Planning

Current Status: Motion to dismiss for failure to prosecute

Next Activity: Hearing on motion to dismiss, to be scheduled.

Billing to date: \$30,960.98.

Emmert, Helen & Greg v. Monroe County CA P 02-520

Circuit Court 16th Judge: Garcia Date Filed: 10/2/02

Inverse condemnation and vested rights action.

Growth Management/Planning

Current Status: PL's partial summary judgment motion heard 9/15/05.

Next Activity: Ruling on summary judgment motion.

Billing to date: \$86,289.55

Galleon Bay v. Monroe County v. State of Florida CA K 02-595

Circuit Court 16th Judge: Payne Date Filed: 5/21/02

Inverse condemnation and vested rights action.

Growth Management/Planning

Current Status: Summary judgment motions pending.

Next Activity: Motions hearing 10/24/05, 1 pm.

Billing to date: \$203,595.15

***** Robert Freilich is serving as co-counsel.**

Good, Lloyd v. Monroe County **CA K 01-977**

Circuit Court 16th **Judge: Payne** **Date Filed: 8/9/01**

Inverse condemnation action based on NROGO and declaratory judgment that owner be awarded permits for properties.

Growth Management/Planning

Current Status: Plaintiff motion to amend complaint filed.

Next Activity: Respond to amended complaint.

Billing to date: \$16,352.91

CAY Time: 1.5

Hardin, Michelle v. Monroe County **CA K 99-1046**

Circuit Court 16th **Judge: Miller** **Date Filed: 9/3/99**

Appeal of code enforcement decision.

Growth Management/Code Enforcement

Current Status: Case being transferred back to CAY.

Next Activity: Appellant must produce record per 8/1/5 order.

Billing to date: \$9,237.07 on this & related dismissed Federal case.

I.C. & E. v. Monroe County **01-CV-10105**

U.S. Dist. Ct. **Judge: King** **Date Filed: 10/4/01**

Declaratory judgment action regarding wireless tower moratoria.

Growth Management/Planning

Current Status: 11th Circuit directed District Court to dismiss case.

Next Activity: Awaiting order of dismissal.

Billing to date: \$18,966.92.

Johnson, Lloyd v. Monroe County **CA K 02-1248**

Circuit Court 16th **Judge: Payne** **Date Filed: 10/30/02**

Writ of Mandamus challenging Planning Director's determination that boundary determination by alleged error requires zoning map amendment.

Growth Management/Planning

Current Status: Agreement reached.

Next Activity: Proposed final judgment pending.

Billing to date: \$1,889.62

Kalan, Suzanne v. Monroe County **CA P 03-155**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/11/03**
Inverse condemnation action.
Growth Management/Code Enforcement

Current Status: Held in abeyance pending BUD hearing.

Next Activity: none.

Billing to date: \$2,855.77.

Neumont, Elizabeth et al. v. Monroe County **99-10054-CV**
11th Circuit Court of Appeals **Judge: Paine** **Date Filed: 5/21/99**
Cass action challenging enactment of vacation rental ordinance.
Growth Management/Planning

Current Status: Briefs completed.

Next Activity: Oral argument 10/26/05.

Billing to date: \$123,563.24

Neumont, Elizabeth et al. v. Monroe County **04-13610-X**
11th Circuit Court of Appeals **Judges: TBA** **Date Filed: 7/15/04**
Appeal of dismissal of class action challenging enactment of vacation rental ordinance.
Growth Management/Planning

Current Status: Briefs completed.

Next Activity: Oral argument 10/26/05.

Billing to date: \$123,563.24

O'Daniel, John & Theresa Hill v. Monroe County **CA P 02-141**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/13/02**
Appeal of code enforcement action and vested rights claim.
Growth Management/Code Enforcement/Planning

Current Status: Complete, on appeal.

Next Activity: None pending appeal.

Billing to date: \$32,705.49.

O'Daniel & Hill v. Monroe County **3D-05-583**

Third DCA **Judges: TBA** **Date Filed: 3/18/05**

Appeal of circuit court decision in CA P 02-141.

Growth Management/Code Enforcement/Planning

Current Status: Briefs complete.

Next Activity: Oral argument set for October.

Billing to date: See previous case.

Sierra Club, et al v. DCA, Miami Dade & City of Homestead **03-150-GM**

DOAH **Judge: Maloney** **Date Filed: 1/17/03**

Court intervened in administrative challenge to amendment of Miami-Dade's comp. plan redesignating Krome Avenue to a major roadway.

Growth Management/Planning

Current Status: Trial preparation.

Next Activity: Final hearing set for 9/19 through 9/30/05.

Billing to date: None, *pro bono*.

Paul, Hastings (Bob Freilich)

White & Smith (Tyson Smith)

Collins, Thomas, et al v. Monroe County **CAM-04-379**

Circuit Court 16th **Judge: Payne** **Date Filed: 11/22/04**

Takings action brought by 11 groups of plaintiffs.

Growth Management/Planning

Current Status: Discovery ongoing.

Next Activity: McGarry deposition 10/4/5.

Fees billed to date: \$280,057.42

CAY Time: 94.0 hours

Costs: 0.00

See also Galleon Bay v. Monroe County – Morgan & Hendrick.

Purdy, Jolly & Giuffreda, P.A.

Evans, Brian v. Monroe County **04-CIV-10033-JLK**
U.S.Dist.,S.D.Fla. (Miami) Judge: King **Date Filed: 5/6/04**
Civil action against the County, and others, arising from actions of Sheriff's office in publicizing the rescission of a warrant it had obtained for his arrest. **MCSO**

Current Status: Court awarded County & Sheriff \$4,579.00 in attorney's fees against Evans for filing frivolous suit & denied Evan's motion to stay enforcement of judgment pending appeal.

Next Activity: Collection.

Fees billed to date: None **Costs:** 0.00
CAY Time: 9.5 hours

Evans, Brian v. MCSO, Monroe County, et al **05-10077-B**
11th Circuit Court of Appeals Judge: TBA **Date Filed: 1/5/05**
Appeal of award of attorney's fees against Evans in 04-CIV-10033.
MCSO

Current Status: Briefs completed.

Next Activity: Await decision by Court.

Fees billed to date: None **Costs:** 0.00

Evans, Brian v. Monroe County, et al **CIV S 04-1042 LRH**
U.S.D.C. Nevada Judge: Jones **Date Filed: 7/28/04**
Same allegations as Florida case 04-CIV-10033 that were dismissed. **MCSO**

Current Status: Dismissal affirmed by the 9th Circuit, 04-17429.

Next Activity: None while appellate decision becomes final.

Fees billed to date: None **Costs:** 0.00

Evans, Brian v. MCSO, Monroe County, et al **O4-17429**
9th Circuit **Judges: O'Scannlain, Callahan & Beach** **Date Filed: 12/09/04**
Appeal of Nevada Court's dismissal of suit in CIV S 04-1042 LRH. **MCSO**

Current Status: 8/15/05, County prevailed when Court affirmed dismissal of Evans' complaint in Nevada for lack of jurisdiction.

Next Activity: Await 30 days for decision to become final.

Fees billed to date: None **Costs:** 0.00

Evans, Brian v. KW Citizen, Monroe County, et al **CV S 04-1742-KJD-LRL**
U.S.D.C. Nevada **Judge: Dawson** **Date Filed: 1/6/05**
Defamation suit over alleged misstatements by Mark Willis in the Citizen. **MCSO**

Current Status: Evans dismissed case on 2/11/05; threatened to refile.

Next Activity: Await service.

Fees billed to date: None **Costs:** 0.00

The Smith Law Firm

Monroe County v. Post Buckley, Schuh, and Jernigan **CAK-95-402**
Circuit Court 16th **Judge: Payne** **Date Filed: 3/30/95**
Malpractice claim against the County's former engineering firm for miscalculation of bonds necessary to finance improvements to Card Sound Road.
Engineering

Current Status: Defense verdict 6/14/05.

Next Activity: Finalize attorney's fees.

Fees billed to date: \$630,311.78 **Costs:** 0.00

Monroe County v. Post Buckley, Schuh, and Jernigan **3D05-1822**
Third DCA **Judges: TBA** **Date Filed: 8/1/05.**
Appeal of judgment in the above case.
Engineering

Current Status: Organizing record.

Next Activity: County's brief due November 10, 2005.

Fees billed to date: none **Costs:** 0.00

Vernis & Bowling of the Florida Keys, P.A.

GAP Properties of SW Florida-I, Inc. v. Monroe County CAK-04-1321

Circuit Court 16th Judge: Jones Date Filed: 12/10/04

Cert. review of action involving failure to obtain plat approval of dock subdivision and an improper change of use without a major or minor conditional use permit.

Growth Management/Planning

Current Status: Certiorari denied, rehearing motion pending.

Next Activity: County's motions for attorney's fees & to strike.

Fees billed to date: \$26,875.00

Costs: \$306.43

Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry CAK-04-224

Circuit Court 16th Judge: Jones Date Filed: 3/2/04

Action to prevent County from denying permits because of ownership conversion to condominiums and compel County to accept permit applications that have been rejected MCC 9.5-49.

Growth Management/Planning

Current Status: Amended petition pending.

Next Activity: Petitioners counsel's motion to withdraw 9/27/05.

Fees billed to date: \$32,290.50

Costs: \$2,540.84

Monroe County v. Mary Boza CAK-03-1508

Circuit Court 16th Judge: Jones Date Filed: 12/18/03

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Growth Management/Code Enforcement

Current Status: \$7,300.00 received 8/24/05.

Next Activity: Finalize execution of settlement agreement.

Fees billed to date: \$7,300.00

Costs: 0.00

CAY Time: 5.4 hours

Monroe County v. Alain Y. Depierrefeu **CAK-03-1504**

Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Growth Management/Code Enforcement

Current Status: Final default judgment entered on 6/21/05 for \$144,505.03.

Next Activity: Auction to be scheduled.

Fees billed to date: None

Costs: 0.00

Monroe County v. Alain Y. Depierrefeu **CAK-03-1507**

Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Growth Management/Code Enforcement

Current Status: Final default judgment entered on 6/21/05 for \$616,555.03.

Next Activity: Auction to be scheduled.

Fees billed to date: None

Costs: 0.00

CAY Time: 3.5 hours (both cases)

Monroe County v. Mary Ellen Lloyd **CAM-03-362**

Circuit Court 16th **Judge: Jones** **Date Filed: 12/19/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

The total amount of the lien owed to the County is \$143,500.00.

Growth Management/Code Enforcement

Current Status: Compliance achieved 8/31/04.

Next Activity: Settlement offer to be presented at October BOCC meeting.

Fees billed to date: None

Costs: 0.00

CAY Time: 2.3 hours

Monroe County v. James Messera, et al **CAK-03-1509**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

Growth Management/Code Enforcement

Current Status: Owners working on compliance.

Next Activity: Settlement discussions ongoing.

Fees billed to date: None

Costs: 0.00

Monroe County v. Joe Posada, III **CAK-03-1503**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

Growth Management/Code Enforcement

Current Status: Settlement unproductive.

Next Activity: Proceed with foreclosure.

Fees billed to date: None

Costs: 0.00

CAY Time: 3.5 hours

Monroe County v. Virginia Sawyer & Tony Welters **CAK-03-1505**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Growth Management/Code Enforcement

Current Status: DFs answered.

Next Activity: Discovery.

Fees billed to date: None

Costs: 0.00

Monroe County v. Virginia Sawyer **CAK-03-1506**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Growth Management/Code Enforcement

Current Status: DFs answered.

Next Activity: Discovery.

Fees billed to date: None

Costs: 0.00

Monroe County v. Louis Welters **CAK-04-639**

Circuit Court 16th **Judge: Jones** **Date Filed: 6/14/04**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Growth Management/Code Enforcement

Current Status: DF answered.

Next Activity: Discovery.

Fees billed to date: None

Costs: 0.00

Osborn, Jeff v. Monroe County **CAP-04-564**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
1 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management/Planning

Current Status: Pleadings complete.

Next Activity: Oral argument set for 9/29/05.

Fees billed to date: \$14,039.50 **Costs:** \$261.49

Osborn, Jeff v. Monroe County **CAP-04-565**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
2 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management/Planning

Current Status: Pleadings complete.

Next Activity: Oral argument set for 9/29/05.

Fees billed to date: \$3,920.50 **Costs:** \$146.93

ⁱ Includes cases listed under outside counsel if CAY has entered appearance as co-counsel.

ⁱⁱ Article V issue, bankruptcy claim, and Fire Rescue.